

March 13, 1975

PRESIDENT: You have two minutes Senator.

SENATOR CHAMBERS: In closing, I would like to ask Senator Cavanaugh a question, if he will answer it.

SENATOR CAVANAUGH: I will.

SENATOR CHAMBERS: I'll ask it quickly cause you won't have long to answer. Since Judge Koontz, I feel, found as a matter of law that lawyers need not be honest and tell the truth in this state, are lawyers not free to comment on that finding?

SENATOR CAVANAUGH: I think that the lawyers can comment on Judge Koontz finding of law. I was one lawyer who would comment that Judge Koontz finding of law that lawyers need not tell the truth in the State of Nebraska is inaccurate and distasteful. I think that most other lawyers would comment on the same fashion. We probably should not properly comment on his ultimate recommendation as to disposition, as to what action shall be taken against Mr. Cook, that is a decision to be left to the Supreme Court. I think any lawyer is free to comment on any judges finding of law.

PRESIDENT: Senator Chambers your time is up. Chair recognizes Senator Cavanaugh.

SENATOR CAVANAUGH: I'll finish that statement by simply saying I think every lawyer has an obligation to comment on that particular finding of law because it does reflect discredit upon each of us. There is certainly no way that the legal profession can come before the people of the State of Nebraska and say that when we take an oath to tell the truth, the whole truth and nothing but the truth, that means something other in the language of Judge Koontz, except under certain circumstances. That simply is not the law. Lawyers are bound to tell the truth. I think all lawyers believe that. I think Judge Koontz was in gross error and made a foolish statement. I would believe that the Supreme Court, in its ultimate disposition of the Cook case, would make a similar finding.

I'd like to comment on a couple of other of Senator Chambers remarks. First of all with regard to the monopoly. A legal profession is not a monopoly. A monopoly is a single entity that controls an economic portion of the community. There is a single oil company, if there were one, that controlled all of the oil industry of the State of Nebraska or the United States. That would be a monopoly. The legal profession is simply that, a profession. It's a collection of individuals qualified, through training and education, and licensing, to pursue a certain aspect of work, which namely is the practice of law, the representation of individuals with legal problems. That is not a monopoly. We do not set prices, although we did in the past. I am free and do set my fees in my profession according to what I think is a fair and just fee for each individual case and each individual item. Most lawyers today do that in a similar manner. There is not a great deal of collusion on fee setting in the State of Nebraska. There are certain standard fees that have arrived because they are generally accepted to be a fair price for the work done. There are no set and definite fees for all items of work. Every lawyer is free to charge what he feels is a fair price. In addition to all of that,